

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20577

IN THE MATTER OF THE CLAIM OF

SUMNER PINGREE, JR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2270
Claim No. CU-2273

Decision No. CU
5935

Counsel for claimant:

Bingham, Dana & Gould
By Walter D. Malcolm, Esq.

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by SUMNER PINGREE, JR. for \$253,899.00 based upon the asserted ownership of a stock interest in a Cuban corporation and two cashiers checks issued by a bank in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been

nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Losses are asserted for the following property:

Cashiers checks issued by The First National Bank of Boston in Santiago, Cuba	\$ 13,000.00
18,104 shares of Central Ermita, S.A.	240,899.00

Cashiers Checks

Claimant has submitted photocopies of two cashiers checks issued on June 16, 1960 by the Santiago, Cuba branch of The First National Bank of Boston for the total sum of 13,000 Cuban pesos. On the basis of the evidence, the Commission finds that SUMNER PINGREE, JR. had on deposit with The First National Bank of Boston in Santiago the sum of 13,000 pesos payable on his demand. (See Claim of Ana Maria Lopez Gutierrez, Claim No. CU-0197.)

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all goods and chattels, rights, shares, stocks, bonds and other securities of persons who had left the country. The Commission has held that this included bank accounts. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].) As the record shows, claimant was residing in the United States on December 6, 1961.

Accordingly, the Commission finds that the funds owing to claimant were taken by the Government of Cuba on December 6, 1961 and further that the 13,000 pesos had a value of \$13,000.00. The Commission concludes that claimant suffered a loss in the amount of \$13,000.00 within the meaning of Title V of the Act as a result of the actions of the Government of Cuba on December 6, 1961.

Stock Interest

Claim has been asserted in the amount of \$240,899.00 for the value of 18,104 shares of Central Ermita, S.A.

In our decision entitled Claim of Augustus P. Loring, Albert E. Wadsworth, Angus M. Irvine and Sumner Pingree, Jr., Executors of the Estate of Sumner A. Pingree, Deceased, Claim No. CU-2275 (which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$13.6391.

On the basis of evidence in the record in the instant claim, the Commission finds that claimant comes within the terms of the Estate of Sumner A. Pingree decision; that he has been the owner of 18,104 shares of stock in Central Ermita, S.A. since prior to August 6, 1960; and that he suffered a loss in that connection in the amount of \$246,922.27 within the meaning of Title V of the Act.

Accordingly, the Commission concludes that claimant suffered losses within the meaning of Title V of the Act as the result of the taking of his property by the Government of Cuba as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
18,104 Shares, Central Ermita	August 6, 1960	\$246,922.27
Cashiers Checks	December 6, 1961	<u>13,000.00</u>
		\$259,922.27

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant claim it is so ordered, as follows:

<u>FROM</u>	<u>ON</u>
August 6, 1960	\$246,922.27
December 6, 1961	13,000.00


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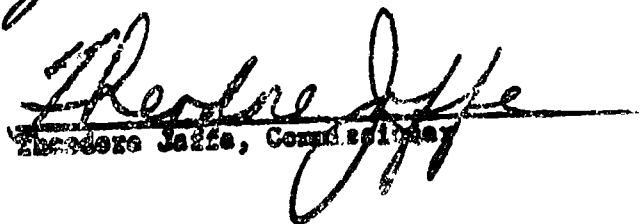
CERTIFICATION OF LOSS

The Commission certifies that SUMNER PINGREE, JR. suffered a loss, as a result of actions of the Government of Cuba within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Hundred Fifty-nine Thousand Nine Hundred Twenty-two Dollars and Twenty-seven Cents (\$259,922.27) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

NOV 4 1970


Lyle S. C. Crook, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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